

### **REMARKS**

The office action of May 18, 2007 has been reviewed and these remarks are responsive thereto. Claims 1-38 are pending in the application. By this amendment, independent claims 1, 18 and 23 have been amended. Reconsideration and allowance of the instant application are respectfully requested.

#### **Allowable subject matter**

Applicants thank the examiner for indicating that claims 30-32 are allowable.

#### **Outstanding rejections**

Claims 1-24, 27-29 and 33-38 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. patent no. 4,867,176 to Lash (Lash) in view of U.S. patent no. 5,137,032 to Harmon (Harmon). Claims 25-26 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Lash in view of Harmon and further in view of U.S. patent no. 6,170,484 to Feng (Feng). Reconsideration and allowance of these claims are respectfully requested.

Independent claim 1, as amended, recites the inventive subject matter of one or more hydrophilic cling elements attached to the outer surface of the pouch that are disposed between the open end and the closed end of the pouch, which are “disposed at an intermediate portion of said pouch for anchoring said pouch in or slightly beyond said introitus.” Emphasis added.

Similarly, independent claim 18, as amended, recites the inventive subject matter of a female condom having a cling mechanism attached to the outer surface of the pouch “and disposed between said open end and said closed end at an intermediate portion of said pouch,” which, upon insertion in a user’s vagina, comes into contact with vaginal walls proximate a transition zone between the vagina’s introitus and its rugated internal vaginal tissue. Emphasis added.

Independent claim 23, as amended, recites the inventive subject matter of a packaged female condom comprising, among other features,

a cling mechanism attached to an outer surface of said pouch and disposed between said open end and said distal end at an intermediate portion of said pouch; and

an inserter coupled to said distal end of the pouch, said inserter retaining a distal portion of said pouch and said cling mechanism in a collapsed form;

wherein, upon insertion into a user's vagina, said cling mechanism deploys from said inserter and comes into contact with vaginal walls for lightly clinging to said vaginal walls.

Emphasis added. At least this subject matter of independent claims 1, 18 and 23 is not taught or suggested by the cited prior art.

Further, as noted in the specification, the inventive subject matter of these claims, including the cling elements and their location on the condom, provide advantages to the user. For instance, as noted in independent claim 1, the one or more hydrophilic cling elements are "disposed at an intermediate portion of said pouch for anchoring said pouch in or slightly beyond said introitus." This subject matter is patentable subject matter that is not taught or suggested by the cited prior art and, as noted below, is actually contrary to the teachings of the prior art. Thus, it would not have been obvious to one of ordinary skill in the art to provide a condom having one or more cling elements disposed at an intermediate portion of the pouch as recited in independent claims 1, 18 and 23.

Moreover, the specification discloses example female condoms that can provide a high degree of stability during use for a variety of different sizes of women. *See e.g.*, page 11, paragraph 47. These female condoms have cling elements disposed at an intermediate portion of the pouch for anchoring the pouch in or slightly beyond the user's introitus. For instance, for the example female condom shown in Figure 1, "cling elements 15 are disposed at an intermediate portion of pouch 10 along its outer surface." Page 8, paragraph 39, lines 1 and 2. The cling elements 15 are "placed at gate length g from outer ring 17 for anchoring pouch 10 in or slightly beyond the user's introitus." *Id.* at paragraph 40, line 2. Similarly, the examples shown in Figures 3 and 5 illustrate the inventive subject matter of placing cling elements at a gate length g from the outer ring/condom opening along an intermediate portion of the pouch for anchoring the pouch in or slightly beyond the user's introitus (vaginal opening) to provide a high degree of stability for different sizes of women.

The Office Action correctly notes that Lash "fails to disclose hydrophilic cling elements attached to the outer surface of the female condom and adapted to anchor said pouch in or slightly beyond the vagina's introitus." Office Action, page 4, lines 13-15. In addition, the Office Action asserts that Harmon discloses a "friction-imparting agent (20) [that] clings to the vaginal walls in order to stabilize the condom within the vagina." *Id.* at lines 14-15. Accurately, the Office Action does not assert that Harmon's friction-imparting agent (20) clings to or comes

into contact with the vaginal walls proximate a transition zone between the vagina's introitus and its rugated internal vaginal tissue. Neither Lash nor Harmon teaches this inventive subject matter, nor does the Office Action assert that they do. Harmon actually teaches the opposite.

Instead, Harmon teaches making the length of the condom 2 to 3 inches longer than a regular condom "so that folds can form during use just distally of the fixed or tight portion, i.e., portion 24 ... allowing the closed end 14 to slide off and onto the penis." Col. 4, lines 15-20. Thus, like other prior art female condoms that are susceptible to shifting or twisting (*see e.g.*, Background of the present application, paragraphs 6 to 8), Harmon actually teaches anchoring the condom at its distal end. Further, Harmon teaches away from anchoring the condom in the region proximate the transition zone between the vagina's introitus and its rugated internal vaginal tissue.

More particularly, Harmon teaches placing its friction imparting agent "in several spaced apart patches or bands 20 that together cover the distal end of the condom, i.e., the portion adjacent the closed end 14," which would not cling or come into contact with the vagina's introitus (opening) or the transition zone between the introitus and the rugated internal vaginal tissue during use.

Feng fails to overcome these deficiencies of Lash and Harmon, nor was it relied upon to do so.

For at least these reasons, Applicants respectfully submit that independent claims 1, 18 and 23 are patentable over Lash in view of Harmon, either alone or further in view of Feng, as well as claims 2-17, 19-22, 24-29 and 33-38 depending therefrom.

Conclusion

Based on the foregoing, Applicants respectfully submit that the application is in condition for allowance and a Notice to that effect is earnestly solicited. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact Applicants' undersigned representative at the below-listed number.

Respectfully submitted,

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